

UNITED STATES OF AMERICA  
U.S. ARMY CORPS OF ENGINEERS  
NEW ENGLAND DISTRICT

In the Matter of:

PUBLIC HEARING:

RE: PERMIT APPLICATION  
REVIEW OF A PROSPECTUS FOR A WETLAND MITIGATION  
BANK IN THE TAUNTON RIVER, MASSACHUSETTS WATERSHED  
FILE # NAE-2005-1995

BLUE WAVE CAPITAL, LLC - Applicant

Hanson Town Hall  
542 Liberty Street  
Hanson, Massachusetts

Thursday  
December 14, 2006

The above entitled matter came on for  
hearing, pursuant to Notice at 7:00 p.m.

BEFORE:

Lt. Col. Andrew Nelson  
Deputy Commander and Deputy District Engineer

Alan Anacheka-Nasemann  
Project Manager

Christine Godfrey, Chief  
Regulatory Division

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P R O C E E D I N G S

(7:00 P.M.)

MR. ANACHEKA-NASEMANN: Good evening.

Thank you all for coming to the Corps of Engineers MEPA Joint Public Hearing on the Taunton River Watershed Wetland Mitigation Bank. My name is Alan Anacheka-Nasemann. I am the project manager for this project for the Corp of Engineers. I'm just going to give you a few introductory comments.

This is relative to an application for a Department of the Army permit to actually construct the mitigation bank, and also the prospectus for the mitigation banking proposal. These are both described in our public notice. Copies of this are in the back of the room. If you didn't get one, they're there. Oral comments submitted to the Corps of Engineers become part of our administrative record for the project, and we will -- we do have a transcript running. We will consider those oral comments.

You also have the option to submit written comments into the record. But whether you simply use oral comments or written comments or

1 both, they will all become part of the Corps of  
2 Engineers public record. We have asked anyone who  
3 wishes to speak at this hearing to please sign in.  
4 There is a sign in sheet at the very back. If you  
5 didn't catch that on your way in, by all means put  
6 your name on it now. When this is finished our  
7 transcript will be reviewed and shortly thereafter  
8 posted on our web page. Our web page is shown on  
9 Page 4 of the public notice, which is in the back  
10 of the room.

11 I want to stress that this is also a  
12 MEPA hearing for the Commonwealth of  
13 Massachusetts, and you must send separate comments  
14 to MEPA. We will be making this transcript  
15 available to MEPA, but under that process you also  
16 need to send a separate comment to MEPA. With  
17 that, I'd like to turn it over to the Deputy  
18 Commander of the Buffalo (sic) District U.S. Army  
19 Corps of Engineers.

20 MS. GODFREY: New England.

21 MR. ANACHEKA-NASEMANN: New England  
22 District.

23 MS. GODFREY: He use to Buffalo.

24 MR. ANACHEKA-NASEMANN: I did. I used

1 to work in the Buffalo District. This is  
2 Lieutenant Colonel Nelson. Thank you.

3 LT. COL. NELSON: Thank you, Alan. Good  
4 evening everybody. It's great to have you here.

5 I would like to welcome you tonight to  
6 this public hearing regarding the pending permit  
7 application from Blue Wave Capital on the proposal  
8 to construct a wetland mitigation bank in the  
9 Taunton River Watershed. I would also like to  
10 thank you for involving yourself in this  
11 environmental review process.

12 As Alan mentioned, I am Lieutenant  
13 Colonel Andrew Nelson, Deputy District Commander  
14 of the U.S. Army Corps of Engineer, New England  
15 District. Our headquarters is in Concord,  
16 Massachusetts. We have a number of Corps people  
17 with us here this evening. They include Christine  
18 Godfrey, our Chief of the Regulatory Division.  
19 Karen Adams in the back of the room, she's Chief  
20 of our Regulatory Enforcement Branch for the State  
21 of Massachusetts. Alan has introduced himself  
22 already. Ruth Ladd is from our Policy and  
23 Technical Support Branch. She's the chief of that  
24 branch for us. Larry Rosenberg in the back of the

1 room is the Chief of our Public Affairs at New  
2 England District, and Tim Doogan is also from our  
3 Public Affairs Office. Did Tim step out of the  
4 room? There's Tim. Feel free to talk with any of  
5 those people while you're here during this  
6 evening.

7 The Corps is participating in this joint  
8 public hearing based on a request for a Department  
9 of the Army permit from Blue Wave Capital, LLC to  
10 discharge fill material incidental to excavation,  
11 regrading, and placement of organic top soil and  
12 planting of wetland vegetation within the  
13 excavated areas to enhance wetland functions and  
14 values of approximately 16 acres of degraded  
15 wetlands in order to construct a wetland  
16 mitigation bank in the Taunton River Watershed.

17 The wetland mitigation bank is proposed  
18 to create approximately 9 acres of new wetlands  
19 and enhance approximately 16 acres of existing  
20 degraded wetlands for the purpose of providing  
21 compensatory mitigation in advance of discharges  
22 of dredged or fill material permitted for others  
23 within the Taunton River Watershed under the  
24 regulatory program of the Corps of Engineers. The

1 wetlands propose to be altered consist of  
2 approximately 16 acres of existing cranberry bogs  
3 that are no longer managed for agricultural  
4 production and in which water levels are no longer  
5 regularly manipulated to irrigate harvestable  
6 crops.

7 This hearing serves not only as a  
8 Massachusetts Executive Office of Environmental  
9 Affairs hearing on the Taunton River Watershed  
10 pilot wetlands mitigation bank prospectus, but  
11 jointly as the Corps' hearing on this permit  
12 application. I'd like to thank MEPA for arranging  
13 the hearing. We appreciate and support any  
14 opportunities to coordinate our efforts and review  
15 process to make sure that we provide for a  
16 consistent and efficient evaluations.

17 The Corps's jurisdiction for this  
18 proposed permit is Section 404 of the Clean Water  
19 Act. In addition, the Taunton River Watershed  
20 Mitigation Bank is being reviewed pursuant to the  
21 1995 federal guidance for the establishment, use,  
22 and operation of mitigation banks. Section 404  
23 regulates the discharge of dredged or fill  
24 material in waters of the United States including



1 wetlands. Permittees are often required to  
2 mitigate those permitted wetland losses by  
3 creating, restoring, enhancing, or in exceptional  
4 circumstances, preserving wetlands on or near the  
5 site or sites of impact. The proposed wetland  
6 mitigation bank would provide the Corps and the  
7 regulated public an additional option for  
8 compensatory mitigation of wetland losses.

9 The 1995 mitigation banking guidance  
10 provides the framework for evaluating mitigation  
11 banking proposals and day to day operation of  
12 established mitigation banks. The process begins  
13 with the submittal of a prospectus, which  
14 describes the technical aspects of the overall  
15 mitigation proposal, including the types and  
16 acreage of wetlands to be constructed and the  
17 functions and values expected to result from the  
18 project.

19 The Corps has formed a mitigation bank  
20 review team consisting of federal and state  
21 agencies with jurisdiction over the proposal. The  
22 team for this proposal includes the Corps, the  
23 U.S. Environmental Protection Agency, the U.S.  
24 Fish and Wildlife Service, the Natural Resource

1 Conservation Service, the Massachusetts Department  
2 of Environmental Protection, and MEPA. The team  
3 also includes the applicant and the property owner  
4 of the bank site, in this case, the Massachusetts  
5 Division of Fisheries and Wildlife.

6 I would like to briefly review the Corps  
7 of Engineer's responsibilities in this process.  
8 In accordance with the federal Clean Water Act,  
9 this project must comply with the 404(b) (1)  
10 guidelines prepared by the Environmental  
11 Protection Agency. These guidelines are the  
12 federal environmental regulations used for  
13 evaluating the filling of waters and wetlands and  
14 are designed to avoid unnecessary filling. These  
15 standards mandate that the project must be the  
16 least environmentally damaging practicable  
17 alternative.

18 In addition to compliance with the EPA  
19 guidelines, our permit decision will be based on a  
20 review that includes an evaluation of the probable  
21 impacts of the proposed activity on the public  
22 interest. The benefits from the proposal must be  
23 balanced against its reasonably foreseen  
24 detriments. The Corps must make a determination

1 that the project is not contrary to the public  
2 interest in order to issue a permit. All factors  
3 effecting the public interest will be included in  
4 our evaluation. These public interest factors are  
5 listed in the public notice for your review.

6 Your comments will help us in reaching a  
7 decision. Of particular interest to the Corps of  
8 Engineers are your views on the project, its  
9 impact on waters of the United States,  
10 alternatives, mitigation, and the other public  
11 interest factors. The record of this hearing will  
12 be included in our administrative record and as  
13 Alan mentioned, written comments may be submitted  
14 either tonight or by mail until the close of  
15 business on January 2nd, 2007. While no decision  
16 will be made today, the decision to issue or deny  
17 the Corps permit will be based on an evaluation of  
18 the probable impacts of the proposed activity and  
19 your comments will be considered when deciding  
20 whether the permit application is issued or  
21 denied.

22 Written comments will receive equal  
23 consideration with verbal statements made during  
24 this hearing. Instructions for submitting the

1 written comments are included in the public  
2 notice, which has been mailed to interested  
3 parties and is also on the Corps internet site.  
4 All of your comments will be considered prior to  
5 making a Corps permit decision.

6 And once again, thank you for attending  
7 and participating in this process tonight. Holly  
8 Johnson.

9 MS. JOHNSON: Yes. My name is Holly  
10 Johnson. I'm with the Massachusetts Environmental  
11 Policy Act Office, the MEPA Office. I'm here  
12 representing the Secretary of Environmental  
13 Affairs. This project has submitted an  
14 environmental notification form, an ENF, for  
15 consideration by our office. Just so you  
16 understand the size and scope of the project will  
17 require a mandatory environmental impact report to  
18 be prepared and reviewed by our office. The  
19 proponent has received a special review procedure  
20 to allow this environmental impact report to be  
21 presented as a single environmental impact report.

22 As Alan mentioned earlier, our comment  
23 period is the same as the Army Corps of Engineers.  
24 It will be the 2nd of January. We require written

1 comments. While I listen to what is said in this  
2 evenings meeting, we require our comments to be  
3 provided in writing. So you can find how to  
4 submit comments to our office by going to our  
5 website. Just go to Google and type in MEPA. It  
6 will show you -- get to your link and how to  
7 submit comments. If you're not comfortable with  
8 computers, please see me after this meeting and I  
9 will give you a card that explains how to do it by  
10 snail mail or by fax. I do recognize some people  
11 aren't necessarily comfortable with going around  
12 on the internet.

13 This meeting obviously serves for our  
14 meetings as an environmental notification form.  
15 We did do an outdoor site visit this afternoon.  
16 Went out and looked at the site along with some  
17 other folks, so just so you recognize that it's  
18 not an evening, I have visited the site and will  
19 present information to the Secretary of  
20 Environmental Affairs as we prepare the  
21 certificate on the environmental notification  
22 form. So comments must be submitted in writing to  
23 us by January 2nd, 2007.

24 The secretary will then issue a

1 certificate which outlines the scope of what must  
2 be included in the environmental impact report on  
3 the 12th of January. So obviously, we'll be  
4 listening as well. We are sort of doing -- in the  
5 sake of streamlining, coordinating our review  
6 processes in the form of this hearing. And just  
7 so you recognize also, some of the information  
8 that will be included in the environmental  
9 notification form is similar or the same as some  
10 of the information proponent is preparing for  
11 their Army Corps permits, so that is why the  
12 special review procedure was created to allow for  
13 streamlining and to limit duplicity of documents  
14 so this can a be a little cleaner process.

15 I'd like to introduce now, Vondana Rao  
16 from the Executive Office of Environmental  
17 Affairs. She's going to explain the sort third  
18 element of this meeting. We're sort of killing  
19 three birds with one stone this evening.

20 MS. RAO: Thank you, Holly.

21 I'm Vondana Rao, I'm the Assistant  
22 Director for Water Policy of the Executive Office  
23 of Environmental Affairs.

24 And just by way of background, the

1 reason why I'm here and to kind of give the third  
2 prong to this process, is that Chapter 91, which  
3 is an act that was enacted by the legislature in  
4 2004 basically directed the Executive Office of  
5 Environmental Affairs as well as EOT, which is the  
6 Executive Office of Transportation to establish a  
7 pilot bank in the Taunton River Watershed.

8 We have been at it for the last almost  
9 two years through a banking review team and  
10 through a consultant that was hired through EOEA.  
11 And another portion that was specifically  
12 mentioned in the act was that we were obligated to  
13 have a public hearing on this. So rather than  
14 have separate public hearings all trying to  
15 address the exact same issue, we wanted to make  
16 sure that we coordinated and had the hearing on  
17 the same day, the same time, so all of you have  
18 the opportunity to provide your comments and we  
19 all had, at the same time, the opportunity to  
20 listen to all your comments.

21 I just wanted to take a quick moment  
22 before I pass it along to our consultant here to  
23 recognize and acknowledge a few people in the  
24 audience that have been really key and

1 instrumental in helping move this project forward  
2 and provide lots of technical assistance that  
3 really was part of our wetlands bank and review  
4 team.

5 Priscilla Chapman, who represented the  
6 environmental interest in the watershed has been  
7 very, very key and really good at providing --  
8 gathering feedback from the environmental  
9 organizations and interest in the watershed and  
10 providing it to the wetland bank and review team.

11 Back of the room, that's Susan Peterson,  
12 John Devillars, Jack Buckley, Ruth Ladd, London  
13 Langley, Ken Collette, Steve Barrett and Eric Las,  
14 and of course Alan as well have been really key  
15 members and part of your team and have provided a  
16 lot of technical assistance and really good  
17 thoughts towards making this what it is today, the  
18 documents that you've seen.

19 So with that, I don't want to take  
20 anymore time. I will pass it along to Steve, who  
21 is with Blue Wave Strategies who will talk a  
22 little bit about the project itself.

23 MR. BARRETT: Thank you, Vondana. I'm  
24 Steve Barrett with Blue Wave Strategies and I'm



1 representing the bank sponsor and the applicant  
2 for this project. I'm going to give just a very  
3 brief overview of the process. Have Eric Las from  
4 Beals and Thomas describe some of the technical  
5 aspects of the project and then I'll jump back in  
6 and just provide an overview of the process moving  
7 forward.

8 As Vondana said, Blue Wave was selected  
9 through a competitive process to be the bank  
10 sponsor for the first bank -- wetlands bank in  
11 Massachusetts, and its pilot bank just for the  
12 Taunton River Watershed. And the concept is  
13 really to seek an alternative, a potential  
14 alternative way to ensure that wetlands mitigation  
15 is successful and this would be accomplished here  
16 at the bank to have kind of random sites where  
17 impacts occur.

18 And to ensure this, the process that  
19 we've gone through with the wetlands mitigation  
20 review team, which has included federal, state  
21 agency personnel, wetland scientists,  
22 environmental state stakeholders, local  
23 conservation commission folks, has been to really  
24 go through this process looking at the -- first

1 selecting an appropriate site for a mitigation  
2 bank. And the notices were sent throughout the  
3 watershed planning boards, select boards,  
4 conservation commissions in all the towns in the  
5 watershed, and through that process Burrage Pond  
6 was selected. And then following that through the  
7 last 18 months or so, we've worked together with  
8 the review team to come up with a plan for  
9 wetlands bank and watershed -- excuse me, at the  
10 site. So really it's been a transparent type of  
11 process. It will be transparent moving forward  
12 with filing these permit applications and so  
13 that's the way the process has been put forward  
14 and there's been a lot of input. So with that,  
15 I'm going to have Eric just address some of the  
16 technical aspects of the plan and then I'll  
17 describe the process moving forward.

18 MR. LAS: Thank you, Steve. I find that  
19 this plan comes in quite helpful as I'm explaining  
20 this to provide some context. The proposed bank  
21 will be comprised of three separate areas, the  
22 northern portion of the Burrage Pond, wildlife  
23 management area property. These areas are known  
24 as Areas A, B, and C. I'll basically just go

1 through a quick overview of the existing and  
2 proposed conditions for each area.

3 Starting with Area A, Area A is  
4 comprised of a former cranberry bog that is now  
5 abandoned. The proposal for this area will be 6.7  
6 acres of wetland enhancement that will convert the  
7 abandoned cranberry bog into a mixture of forested  
8 and emergent wetland in that area.

9 The second area is Area B. This area  
10 currently is an upland area. There are some  
11 wetlands within that at this point in time that  
12 have been formed as a result of the cranberry  
13 operations. This area is highly disturbed. And  
14 within this area, we're planning to basically  
15 bring the grades down and create wetland within  
16 this area and enhance the existing wetland areas.  
17 There is 7.37 acres of wetland creation proposed  
18 in Area B and 2 acres of wetland enhancement.  
19 Within Area B there is a mixture of several types  
20 of vegetative plant communities, primarily will be  
21 forested wetland system predominately red maple.  
22 There is also going to be scrub shrub swamps, as  
23 well as shallow and deep emergent areas. The  
24 shallow and deep emergent areas were generally

1 centered over the existing wetlands within that  
2 portion of the site and there will be a stream  
3 channel as well that runs through the center of  
4 this linking this area together.

5 There will be some upland areas within  
6 Area B that are not counted as part of the bank.  
7 Those have been added to diversify the habitat,  
8 provide trail resting habitat, as well. Also  
9 within Area B is another upland area that will be  
10 an elevated viewing area approximately 12 feet  
11 high. There will be pedestrian access and  
12 meandering trails up to the top of that. On-site  
13 soils will be used to create that area and it will  
14 provide an overlook with a very good view across  
15 the entire property.

16 Our Area C is another area within an  
17 existing cranberry bog that has been abandoned.  
18 Within this area there is also a manmade berm with  
19 a sand track road that has been created along the  
20 perimeter of this, as well. There is 7.45 acres  
21 of wetland enhancement proposed that will be done  
22 within the bog and 1.92 acres of wetland creation  
23 that will be a result of the removal of the berm  
24 and roadway. For Area C, this area will be

1 primarily forested wetland, forest conditions and  
2 in addition to the red maple forest, the community  
3 will also be planting Atlantic white cedar as  
4 well. It is a number of Atlantic white cedars  
5 throughout this forested wetland system and we're  
6 planning to plant those in this area to create a  
7 larger contiguous forested wetland complex in this  
8 area.

9 MR. BARRETT: So a lot of work has gone  
10 into this plan thus far and notwithstanding that,  
11 we've also had a number of public information  
12 sessions. One at Bridgewater State College last  
13 summer, one here in Hanson last month, and one  
14 also in Lakeville last month. And now we're kind  
15 of entering the formal public process, so we  
16 attempted to get out and get information from  
17 potential stakeholders in advance of the public  
18 process, now we're in the formal public process.

19 As Alan and Holly said, there are Army  
20 Corps and MEPA permit reviews going on. Both of  
21 them will conclude the public comment period on  
22 January 2nd. There is a handout in the back of  
23 the room which lists the people that you need to  
24 send your comment letters to, as well as the

1 addresses. There's also a DEP, Department of  
2 Environmental Protection, permit that we've  
3 applied for, which is also a wetlands water  
4 quality related permit application that's required  
5 for this project. The comment period for that,  
6 it's called a 401 water quality certificate  
7 application. The comment period for that also  
8 ends on January 2nd, so the idea is to have all  
9 these different review processes occur  
10 concurrently. But you do need to, as I think Alan  
11 emphasized, you need to submit your comment letter  
12 to each of those agencies so that they all have  
13 your comments. You can't assume that if you send  
14 to one that your comments will be addressed by all  
15 of them.

16 In addition to those permits, we are  
17 also before the Hanson Conservation Commission to  
18 get approval under the Wetlands Protection Act as  
19 well as the Hanson local bylaw and that process is  
20 just an ongoing review process. It doesn't have a  
21 certain time period that ends. We go before the  
22 Commission every two weeks or so and present  
23 information and so that will be ongoing.

24 We hope to have all of the permits in

1 hand by the middle of the spring or so. And at  
2 that point between this time and when we have the  
3 permits in hand, we'll also be working with the  
4 public transportation agencies and other  
5 potentially eligible projects to see if we can  
6 identify certain projects that would apply or  
7 offer credits for this project, and if everything  
8 goes in sync we could be under construction by the  
9 middle of the spring. So that's kind of how the  
10 process looks moving forward. I don't know if  
11 there's any other -- with that, I think we're  
12 going to turn it over to public comment and I  
13 guess I'll turn it over to Alan.

14 MR. ANACHEKA-NASEMANN: Okay. As I read  
15 your name, come forward and again say your name,  
16 your affiliation and speak as you see fit. This  
17 is basically a one shot speaking opportunity, so  
18 address all of your comments on the one time you  
19 get. I have a sign in sheet for people who wish  
20 to speak. If you've not signed in yet, please  
21 raise your hand, let me know and I'll get this  
22 sign in sheet to you so that you can go forward  
23 with that. And first on our list of speakers is  
24 Michael Sites.

1           MR. SITES: Good evening. My name is  
2 Michael Sites, I'm the President Elect of the  
3 Massachusetts Association of Conservation  
4 Commissions and I'm here to speak on behalf of  
5 MACC at tonight's hearing on the proposed wetlands  
6 bank and pilot project. As you are undoubtedly  
7 aware, MACC represents, supports, and advocates  
8 for the Conservation Commissions of the 351 cities  
9 and towns of the Commonwealth. In that role we  
10 work with local volunteer conservation  
11 commissioners as they work to protect wetlands  
12 through state and local laws enacted since 1957  
13 when the first in the nation legislation creating  
14 conservation commissions as a vehicle for wetlands  
15 and open space protection was enacted here in  
16 Massachusetts.

17           As we look to 2007, the 50th anniversary  
18 of the adoption of this legislative scheme, we  
19 feel the need to speak out about our support of  
20 the concept of wetlands banking and also about our  
21 concerns relative to the particular proposal  
22 before you at this time. Again, I speak primarily  
23 on behalf of local conservation commissions, which  
24 as Hanson's commission is at the present time,



1 going to be involved in this process and  
2 commissioners have got certain concerns that  
3 they've raised to us and we wish to raise to you.

4           MACC has been following the concept of  
5 wetlands banking for over 10 years now. And in  
6 fact, MACC was involved in the EOEA task force 10  
7 years ago. We're most supportive of the concept  
8 of wetlands banking, but we want to make sure that  
9 any banking scheme supports the no net loss net  
10 gain principals of wetlands functionality. Our  
11 major concern is that any pilot project yield  
12 objective measures of both the technical and  
13 operational financial results for use in  
14 determining the future of wetlands banking in the  
15 Commonwealth.

16           With respect to the current proposal we  
17 recognize that we're dealing with a site which is  
18 clearly degrading. However, we are concerned that  
19 proposed monitoring plan does not include  
20 measurable and objective comparison of pre and  
21 post construction wetlands functionality even at  
22 the most basic level of plant diversity and  
23 habitat structural characteristics. It seems to  
24 us that more could be done in this area without

1 excessive expense. In fact, MACC has already and  
2 will continue to make suggestions about practical  
3 and cost effective methods to do this.

4 This is particularly important to  
5 address at this time, we believe, because  
6 enhancement of wetlands has never before been used  
7 as mitigation for wetlands filling in another  
8 location here in the Commonwealth. We need to  
9 make sure that if this is to be the protocol for  
10 the future that there is a real gain in wetlands  
11 function at least. Function at least, if not in  
12 acreage of resources. It does not appear to us at  
13 this time that the current proposal has an  
14 objective mechanism to achieve this.

15 The practical problem which the present  
16 situation creates is that we fail to see how  
17 conversation commissions and DEP will be able to  
18 decide in the future whether to allow the use of  
19 wetlands bank credits based on the concept that a  
20 better environmental result will follow if there  
21 is not a clear and objective standard for  
22 measuring the pre-construction and  
23 post-construction condition of that bank.

24 Further, the EOTC required summary of

1 pending projects which might use the bank, a  
2 critical first step in our view, has not yet been  
3 completed. This is long overdue in light of the  
4 legislative requirement that this summary be  
5 completed within 90 days of enactment of the  
6 legislation itself. We feel that this must be a  
7 component of any MEPA review or EIR in connection  
8 with this project.

9           It is clear to us, as well, that the  
10 financial information needs to be more transparent  
11 as to this pilot project. It seems that we cannot  
12 tell if the proposed financial assurances are  
13 adequate if they are couched solely in terms of  
14 percentage of credit value. What is needed, we  
15 believe, is an estimate of bank construction and  
16 maintenance costs, something which is yet to be  
17 reported.

18           Other areas of concern are the multiple  
19 roles of DFW as the owner, as evaluator in  
20 wildlife and MESA permit approvals combined with  
21 its long-term management responsibility. As a  
22 regulator DFW needs to disclose more details about  
23 how the Box Turtle, as well as other wildlife  
24 present will be protected and how their habitats

1 will be enhanced. As the long-term owner, DFW  
2 needs to provide assurance that the state will not  
3 be burdened by management costs in excess of the  
4 financial assurances promised by the lending  
5 institution which is the project sponsor. Until  
6 these issues are addressed, we feel that these  
7 multiple roles present a major obstacle.

8 In conclusion, MACC wants to see this  
9 pilot project succeed and to be viewed as a  
10 positive element of Massachusetts environmental  
11 protection activities. It is important in  
12 achieving this goal to realize that more details  
13 are needed regarding objective evaluation  
14 measures, wildlife protection enhancement  
15 features, and the financial legal relationships  
16 among all the involved parties. MACC is eager to  
17 work with you in dealing with these critical  
18 concerns.

19 Thank you for the opportunity to speak  
20 on this issue.

21 MR. ANACHEKA-NASEMANN: Thank you.  
22 Susan Speers.

23 MS. SPEERS: My name is Susan Speers.  
24 I'm the campaign coordinator for a coalition of

1       ten environmental groups called the Taunton River  
2       Watershed Campaign. I'm also speaking on behalf  
3       of Massachusetts Audubon tonight. Heidi Ricci was  
4       on the site walk today and was not able to stay.  
5       Mass Audubon is an abutter to this site, they own  
6       the Stump Brook wildlife sanctuary immediately to  
7       the east. I'm also a member of Mass Audubon, so I  
8       can speak for them. And I'm also representing the  
9       Taunton River Watershed Alliance, the grassroots  
10      advocacy organization for the Taunton River.

11               I have submitted a preliminary written  
12      comment which is signed by myself, Heidi Ricci,  
13      and Bill Fitzgerald, President of the Taunton  
14      River Watershed Alliance. We do expect to submit  
15      a second series of written comments by the  
16      deadline. In deference to the time and other  
17      people wishing to speak, I know that this is a six  
18      page letter, represents the thoughts of a lot of  
19      organizations and people who have been thinking  
20      about this for two years. We don't come to this  
21      just this week, we have been involved since the  
22      legislation was passed.

23               Our principal concerns remain, I think  
24      what as Michael described. The legislation set up

1 a pilot watershed bank for Massachusetts that just  
2 happens to be here in the Taunton River Watershed.  
3 The legislation was established to assess the  
4 effectiveness of wetlands banking as a regulatory  
5 tool to mitigate environmental impacts associated  
6 with constructive activities. To evaluate the  
7 success of this project we need to have certain  
8 information provided at the end of the project so  
9 that the State of Massachusetts can evaluate  
10 whether this should happen again in our state. As  
11 Michael described and our letter outlines, there  
12 are a number of things that can and should be done  
13 so that the Commonwealth of Massachusetts can  
14 evaluate this on a rigorous scientific basis at  
15 the end of the day.

16 The principal concerns that I have had  
17 and other people continue to have is that this is  
18 not being run scientifically, and that there is no  
19 control area designated to study thoroughly as  
20 pre-treatment and then to let it happen over the  
21 next 10 years so that we know what might've  
22 happened in Areas C and A if we had not touched  
23 them. So we have a number of comments about how  
24 to do that and we do believe that it should be

1 part of the cost of the bank so that it should be  
2 thoroughly understood so that the proponents know  
3 what rates they have to charge to make this happen  
4 and not go bankrupt.

5 The second major item is the need to  
6 verify that the proposed enhancement is in fact an  
7 enhancement and will be adding value to functional  
8 wetlands. The concept that Mike talked about  
9 already is that this concept of enhancement is new  
10 for Massachusetts. We need to make sure that  
11 we're going to be able to find out whether Areas A  
12 and C are in fact enhancement.

13 The third major item is the presence of  
14 rare species, wildlife habitat and existing  
15 natural communities. We are aware of the fact  
16 that Fish and Wildlife is going to do a species  
17 plan for the turtle. There needs to be obviously  
18 a long-term management plan for the whole  
19 property. We would like to be able to see all of  
20 that work in the process, not wait until the end.

21 The fourth area is invasive species. We  
22 have a lot of concerns, as outlined in the letter.  
23 The site is relatively unique in that although the  
24 cranberry bogs have been abandoned for sometime,

1       there are not a lot of invasive species there.  
2       Best knowledge so far in terms of what we've seen  
3       and read about in the reports is that one  
4       non-native invasive as it's commonly defined has  
5       been observed and that's Russian Olive. Yet,  
6       these performance standards that are proposed  
7       would allow at the end of the day several more  
8       percent of non-native invasive species to be  
9       classified and be apparent and still have the  
10      project defined as successful. If this is a site  
11      where there is only one invasive species now, it  
12      seems to me that we should be looking for no more  
13      invasive species than we presently have on site.  
14      We will, I think, be able to refine some of these  
15      as the EIR goes forward and we need to have this  
16      thoroughly understood in the scope. What is the  
17      performance standard going to be and that we  
18      should be going for a net improvement, not a loss.

19               Number five relates to potential  
20      conflicts of interest due to the dual roles of  
21      Massachusetts state agencies and this is directed  
22      mostly obviously to the U.S. Army Corps of  
23      Engineers, we're cc'ing EPA. Because there is a  
24      unique situation here which we recognize. We all



1 greatly appreciate the work that's been done and  
2 continues to be done and will always be done by  
3 Fisheries and Wildlife and natural heritage  
4 programs and all the other state environmental  
5 agencies. We partner with you all on a daily  
6 basis and we have no wish to set ourselves up as  
7 an adversarial situation. However it's a fact  
8 that this legislation created a situation where  
9 EOEa and EOEa agencies are permitting each other.  
10 Then we have the Army Corps and EPA involved and  
11 it seems like it's best for us to ask please that  
12 the federal agencies look at this from a federal  
13 point of view and that does the legislation exempt  
14 the apparent conflicts of interest or is there an  
15 actual conflict of interest? That's directed at  
16 the federal level.

17 As Michael Sites mentioned, the required  
18 inventory from the EOTC has not been done. I  
19 would assume that could be delivered in the SEIR.  
20 Number seven is the need for rigorous monitoring  
21 within the bank credit structure and I'm not sure  
22 if that is adequately addressed to this point.  
23 But we have a concern because we want to make sure  
24 at the end of the day that we prove that there are

1 functional wetland credits. Functional wetlands,  
2 therefore they are credits which can be sold. And  
3 if we don't have functional wetlands how are we  
4 even going to retroactively go back if some of the  
5 credits have already been sold?

6 Item eight is the need to assure  
7 availability and funds for monitoring and remedial  
8 actions.

9 Number nine is a procedural question. A  
10 lot of the conservation commissions throughout the  
11 watershed and throughout the state are and have  
12 been concerned of over their legitimate decision  
13 making authority and their current relationship  
14 with DEP and the possibility of superseding  
15 conditions. That's a system that the commissions  
16 are used to operating under, it's well understood.  
17 We've heard that there is some possibility of  
18 higher levels within EOEA being involved in the  
19 permitting, and I think the conversational  
20 commissions deserve to have that understood at  
21 this time or when the EIR is being prepared. If  
22 superseding decisions are issued by DEP, when  
23 using these bank credits, what happens then and on  
24 what basis will DEP be issuing its superseding

1 orders.

2 And the last item is that looking at  
3 this site in particular, the whole 1700 acres, I  
4 think there's a great public interest in making  
5 sure that this site gets appropriate attention,  
6 gets funding necessary to do remediation or any  
7 other remedial work that Fish and Wildlife want to  
8 do. And that therefore it would be helpful to the  
9 agency as well as a great public interest if DFW  
10 could create a public advisory board that could  
11 include all the agencies that are involved in  
12 this, but also the Hanson Conservation Commission,  
13 the Halifax Conservation Commission, and abutters  
14 since as Mass Audubon who have a clear  
15 conservation and stewardship interest and any  
16 other state interest and stakeholder such as TRWA.

17 And I've asked what happens to the  
18 wetlands mitigation banking team and I guess  
19 that's unclear. But if, as is I guess, shall we  
20 say, at least been talked about that the banking  
21 team might disband at some point within the next  
22 few months, I think that establishing a public  
23 advisory board would be very helpful. That's all  
24 I have. If there's any extra copies at the end of

1 the day, they're making some, but this letter  
2 would go to everybody who is involved in the  
3 project.

4 Thank you very much.

5 MR. ANACHEKA-NASEMANN: Thank you Susan.  
6 Janine Delaney.

7 MS. DELANEY: I don't have a document to  
8 present to you, but we will.

9 MR. ANACHEKA-NASEMANN: Okay. That's  
10 fine

11 MS. DELANEY: Janine Delaney.  
12 Conservation Agent for the Hanson Conservation  
13 Commission. Our commission does intend to submit  
14 letters both to MEPA and to the Army Corps of  
15 Engineers. Phil will talk about that after I  
16 bring a couple of points to everybody's attention  
17 here.

18 What I did was I put a comment letter  
19 together for our commission and some of the points  
20 that we will raise in our letters to the Corps of  
21 Engineers and MEPA are expressed in this letter.  
22 I will not read the whole nine page letter, but  
23 just the points that I think are valid for your  
24 purposes. I will provide a copy of this document

1 if you're interested as well. It will not be our  
2 final comments.

3 The cover letter that came with the  
4 notice of intent filing to the commission states  
5 that "In all cases, the use of the pilot bank as a  
6 mitigation tool remains at the discretion of the  
7 regulatory agencies." I'm suggesting that the  
8 commission request clarification as to which  
9 regulatory agencies have this discretion. Will  
10 the support of all the regulatory agencies be  
11 required at the local, state, and federal level or  
12 are state and federal all that is needed? Same  
13 point that Susan brought up about the superseding  
14 order of conditions.

15 As the overseers for the wetland  
16 replication or wetland alteration elsewhere in the  
17 watershed, I feel the Hanson Conservation  
18 Commission should be assured that other  
19 conservation commissions will not be forced to  
20 make decisions that are not appropriate to their  
21 communities or for the resource areas in their  
22 towns based on the fact that the wetland bank  
23 exists.

24 It's stated too that the pilot bank may

1 be used as a mitigation option in the case where  
2 on-site mitigation had been demonstrated to be  
3 impractical or undesirable. I suggest that this  
4 commission, our commission requests clarification  
5 as to who makes this determination. Will criteria  
6 be established to assist commissions in  
7 understanding when such a claim by an applicant is  
8 valid?

9 The letter states also that applicants  
10 are still required to avoid, minimize, and  
11 mitigate wetland impacts but as all commissions  
12 are aware, with limited resources conservation  
13 commissions often find it difficult to prove that  
14 an applicant has made the best effort and a true  
15 effort to avoid and minimize. Especially when  
16 faced with a developer's team of professionals who  
17 claim that a full build out of the projects  
18 necessary.

19 Point sixteen in my letter. Aerial  
20 photographs of the site aren't accurate in that  
21 these buildings have been removed. It may cause  
22 confusion to people who aren't familiar with this  
23 site. And another point is that this area here  
24 has a groundwater contamination issue or had in

1 the past. And the commission -- I'm requesting  
2 that the commission seek information as to the  
3 potential of existing and future groundwater  
4 contamination migrating into Area B and even  
5 further downgrading.

6 Twenty. Existing conditions section  
7 states that the on site bogs are transitioning to  
8 uplands. I'm suggesting that the commission  
9 request a vegetation analysis to support this  
10 claim. Soils, hydrology, water quality in wetland  
11 resource areas are discussed throughout many of  
12 the project descriptions. With the three areas,  
13 it's often difficult to figure which area we're  
14 talking or which area the applicant is discussing.  
15 I'm suggesting that both the proposed conditions  
16 and existing conditions, each area be described  
17 separately.

18 In our application it was mentioned a  
19 very hydric soils for test pits and organic soils  
20 located beneath the bogs, but the test pit  
21 information that was submitted to us shows that  
22 Area B was the only area looked at for test pits,  
23 so we question whether subsurface soils were  
24 looked at in A and C.

1           In the application that was submitted to  
2       us, there was no mention how the habitat of the  
3       Eastern Box Turtle will be protected during  
4       construction. It may have been mentioned in the  
5       other documents in the MEPA filing and the Army  
6       Corps of Engineers filing. We haven't had an  
7       opportunity to thoroughly review either of those.

8           We're asking for a specific outline of  
9       each work area for the construction phase, erosion  
10      control, time of year, water management, flow  
11      diversions if necessary, access to the sites,  
12      stockpiling locations. I do realize that a lot of  
13      material will be stockpiled in the viewing area,  
14      but other stockpile areas were mentioned as well  
15      and I didn't see where in the plan those would be  
16      located.

17          We had a meeting back in February of  
18      2006 in which we met with the project proponent  
19      and discussed the potential of the isolated  
20      wetlands in Area B as functioning as habitat. And  
21      we had requested that the project proponent review  
22      that area during the spring just to analyze the  
23      site for such, and there was no mention in our  
24      filing if that had taken place. That was number



1 thirty six in my comment letter.

2           Number forty one. The applicant  
3 contends that the Division of Fisheries and  
4 Wildlife, natural heritage and endangered species  
5 programs support and the wildlife, national  
6 heritage, endangered species programs support  
7 their contention that as a wildlife habitat  
8 enhancement project approved in writing by the  
9 division, the project as proposed meets the  
10 wildlife habitat interest in the act bylaws and  
11 regulations. We are asking a consideration of the  
12 potential of Area B to provide habitat has been  
13 considered. That was actually mentioned earlier  
14 as well, and I'm suggesting that the commission  
15 request a detailed wildlife habitat evaluation as  
16 for the Massachusetts wildlife habitat protection  
17 guidance documents implemented by the DEP in March  
18 of 2006, and what this will do is present the  
19 commission with factual data that will provide a  
20 comparative information as to what exists now and  
21 what will be proposed so that we can make an  
22 informed decision as to whether there actually are  
23 improvements.

24           Number forty seven is a comment related

1 to site selection. There are a number of pages  
2 that include the list of the towns and cities that  
3 were sent nomination forms on the site selection.  
4 I've suggested to this commission that the  
5 conservation commissions within the watershed in  
6 that list be advised in writing of the progress of  
7 the wetlands bank and be provided with a copy of  
8 the filing or at the very least a copy of the long  
9 term monitoring plan. That long term monitoring  
10 plan is the plan that basically outlines the  
11 monitoring of the wetlands that will be replicated  
12 for potential alteration in their towns.

13 My comment, number fifty seven to the  
14 commission, among them which Phil will address. I  
15 don't think he's on the sign in sheet. He arrived  
16 right before we started the meeting.

17 The commission should consider  
18 requesting an extension on comments related to the  
19 Army Corps of Engineers and MEPA permit.  
20 Currently the deadline for both is January 2nd.  
21 Due to the timing of the submission of the notice  
22 of intent, the commission has not had the  
23 opportunity to review either of the findings  
24 thoroughly.

1           And my last comments, which is sixty two  
2   on this document as stakeholders in a pilot  
3   project, it is important that our commission  
4   understand the point system utilized in the bank  
5   and how they apply to the resource areas created  
6   and enhanced. How are they sold, when will the  
7   selling of credits begin, what criteria will be  
8   utilized to determine success, successful  
9   enhancement or creation of wetlands. As DEP  
10   recommends two growing seasons to establish  
11   success, will the selling of credits be allowed to  
12   take place prior to this time?

13           And there's actually one of the ones  
14   that I think I skipped, but we can address that in  
15   our letters -- in our formal letters. Thank you,  
16   very much.

17           MR. ANACHEKA-NASEMANN: Thank you.  
18   James Watson.

19           MR. WATSON: Good evening. I'm Jim  
20   Watson with the Old Colony Planning Council. Also  
21   a long term member of my local conservation  
22   commission.

23           There are people who have done a lot  
24   more detailed, procedural looking. I'm just

1 wondering how it would work -- well first, in  
2 terms of the kind of activities that could be  
3 allowed. The prospectus talks about being created  
4 to facilitate major public works projects and to  
5 allow enforcement to be done in a practical way  
6 where it unfortunately, hasn't worked out. But I  
7 notice the statement of purposes says as the  
8 public works projects and projects requiring  
9 wetland variances, permits and orders of  
10 conditions within the watershed, which sort of  
11 implies a mode of open market, you know, a much  
12 more diverse application. So I'm wondering  
13 whether this starts out to facilitate major public  
14 works projects and then will become something  
15 where the developer can come to the commission  
16 with a certificate in hand and, you know, he  
17 probably comes with a position of too much  
18 strength, I don't know. I'm just wondering if  
19 it's going to become much more diverse. If you  
20 think of the -- a lot of attention lately to  
21 carbon sales and certainly for use as an  
22 additional money area on the grounds that you do  
23 the most cost effective thing, but ultimately it's  
24 one atmosphere where we have many, many, micro

1 environments, so I think aren't really comparable.

2           So the second point is just how will the  
3 qualitative and quantitative values of the effected  
4 wetlands be balanced? Will there be a mechanism  
5 where you obtain a shrub swamp certificate and a  
6 white cedar certificate for white cedar filling,  
7 etcetera. It could become much too micro. But at  
8 least you'd say, okay, we did a certain thing  
9 under your wildlife management area and you're  
10 proposing to do such and such with your project;  
11 has land of that sort been created that creates a  
12 balance?

13           And then the end part of it is, looking  
14 at the values and the functions, if you have an  
15 area proposed for filling which has some flood  
16 value or flood storage value; is that required to  
17 be created elsewhere? You could be open to  
18 details, but I think it's important that it not  
19 just be a market function where you create some  
20 mitigation in one place, get some certificates and  
21 go in with your enhancement or your restored areas  
22 and do it, you know, just categorically.

23           So I guess a related question is; does  
24 the local Conservation Commission retain its

1 normal discretion over local projects and the  
2 wetland protection act? You know, granted, there  
3 are appeals and hearings, but who does decide how  
4 applicable these credits are to a project? If  
5 somebody comes to build and proposes something to  
6 Hanson and says, "Look, I have my certificates.  
7 You sort of have to give it to me." Does the  
8 commission have the position to say, "Wait a  
9 minute. What you're proposing to do isn't what  
10 has been replicated by the project?" I'm just  
11 wondering what the dynamics would be. Maybe it's  
12 spelled out someplace else.

13 And then similarly, on the quantitative  
14 side; is it an acre for an acre, regardless of the  
15 different values of the areas effected. And I  
16 realize the distinction between the restored and  
17 the enhanced, but it would be a very different  
18 qualitative -- you know, creating 25.55 acres of  
19 wetland on a 1,700 acre site is nice, but the time  
20 is unfortunate. Taking a ten acre site and  
21 proposing to fill a couple of acres and say,  
22 "Look, they have the certificates," could be quite  
23 different.

24 So I think I think a lot of things need

1 to ne clarified and maybe when they're clarified,  
2 some of the doubts will be vented. Thanks.

3 MR. ANACHEKA-NASEMANN: Thank you, sir.  
4 Priscilla Chapman.

5 MS. CHAPMAN: Good evening. I'm  
6 Priscilla Chapman. It was great honor and  
7 privilege to represent the environmental advocacy  
8 groups, the review team for this project, and it  
9 was also a great honor and privilege to work with  
10 the other members of the review team. I'm very,  
11 very grateful for the opportunity to learn from  
12 all of your expertise. It was an experience that  
13 I will not soon forget and I've learned a great  
14 deal, so thank you.

15 I have some written comments, but I'm  
16 going to just -- I have some written comments, but  
17 I picked out six issues that I just want to  
18 mention and I'll hand in the rest.

19 As this project goes forward  
20 preservation of natural wetlands has got to be  
21 priority one. I hope that this mitigation site is  
22 successful. We have excellent consultants who  
23 have worked on this and so I think that there is a  
24 very good chance that that will happen, but this

1 bank should only be used if the loss is  
2 unavoidable and if local mitigation is  
3 impracticable.

4           If you skin your knee you don't put a  
5 bandage on your nose. And as someone who has been  
6 a conservation agent for a long time as Janine  
7 has, values -- wetland values are very, very  
8 important local reaches of the watershed. For  
9 example, water pollution abatement, storm damage  
10 protection, fisheries, wildlife habitat. We must  
11 not make some communities in the Taunton River  
12 Watershed big wetland losers as a result of this  
13 project, and I hope and trust that's not what's  
14 going to happen. And especially, we must check  
15 that there is no net transport from densely  
16 developed areas in the watershed. Areas that have  
17 already lost a lot of wetlands and really need to  
18 keep the precious few wetlands that they have  
19 left. And I bring that up because there have been  
20 reports from other states that have indicated that  
21 there is a net transport of wetlands from urban  
22 areas to rural areas.

23           Second point. Other people have brought  
24 this up. We just learned recently that Area B



1 contains nesting habitat for the Box Turtle. This  
2 was new information, it had not been discussed at  
3 the review team. We have not been presented with  
4 an assessment of these impacts if there are some.  
5 We really need to see a management plan and that  
6 needs to be looked at very, very carefully. I  
7 think that especially for an area that's intended  
8 to mitigate wetlands loss in other areas of the  
9 watershed, this area must not itself negatively  
10 impact habitat for rare species.

11 Third thing. Other people have brought  
12 this up, as well. The issue of enhancement, as  
13 other speakers have mentioned, this is a new  
14 mitigation tool for Massachusetts and there are no  
15 criteria -- there is no fact-based frame work to  
16 evaluate whether -- to what extent wetland values  
17 have actually been added. We need a detailed  
18 baseline assessment of Areas A and C so that  
19 improvement in these areas can be verified. And I  
20 think in that way the public will have a lot more  
21 confidence in this wetlands bank. And the  
22 baseline assessment should include vegetation,  
23 habitat features, hydrology, soil, possibly other  
24 factors.

1           Related to this, the success criteria  
2           that are proposed in the monitoring plan will not  
3           guarantee added value. They simply do not measure  
4           it, they're not designed to. In fact, in the  
5           monitoring plan for Area C the number of required  
6           species is less than the number of species that I  
7           observed when I've visited the site. So that  
8           could allow a decrease in vital diversity in that  
9           particular area. Parts of Area C may already meet  
10          the hydrology criteria, which is the groundwater  
11          within 12 inches of the surface two weeks of the  
12          growing season. I highly suspect that some  
13          portions of Area C already meet that criteria. So  
14          measuring and evaluating Area C by that criteria  
15          isn't going to prove that anything was improved.

16          Related to this, vigorous monitoring is  
17          crucial to this project. 30 percent of the  
18          credits for this bank, according to the proposal,  
19          may be sold before construction takes place, 80 or  
20          90 percent may be sold after the second growing  
21          season. We know from experience in other states  
22          that the bank could fail after that time. I hope  
23          that it won't, but it could.

24          For that reason, we need to have

1 continuing monitoring after the second growing  
2 season. And also, we need to strengthen the  
3 success criteria that are found in the monitoring  
4 plan. I believe that you could apply the proposed  
5 success criteria to any number of existing  
6 replication sites around the Taunton River  
7 Watershed and I believe they would pass. I  
8 believe they would make the grade. The applicant  
9 has stated that one of the purposes of this bank  
10 is to provide greater ecological benefits for  
11 mitigation. If that's the case, then the success  
12 criteria in the monitoring plan must be designed  
13 so that you will get a greater ecological benefit,  
14 and that would mean not just a pass/fail kind of a  
15 test.

16 And specifically, as I think I mentioned  
17 before, I think you need to require more species  
18 diversity, greater number of species in each area.  
19 In Area A the marshes don't require any diversity,  
20 they just require vegetative coverage. You could  
21 have a mono-culture as I read the monitoring plan  
22 and that's not -- that should not be acceptable.  
23 And as has been stated before, no credit for  
24 invasives.

1                   Number five. Atlantic White Cedar.

2       This is, I think, my favorite topic in the whole  
3       thing. The natural heritage and endangered  
4       species program identified acidic peat-land  
5       communities, which includes Atlantic White Cedar  
6       as an ecosystem type that represents the most  
7       threatened or ecologically essential areas for  
8       rare plants and animals in Massachusetts. And  
9       natural heritage recommends as one of their  
10      recommendations that we should restore Atlantic  
11      White Cedar in natural communities where they have  
12      been lost or degraded. For that reason, I commend  
13      Beals and Thomas for including the proposal to  
14      restore Atlantic White Cedar in Area C.

15                I have two concerns about that. One is  
16      that there is existing regeneration of cedar along  
17      the south and the east edges. I'd like a second  
18      look to be taken at the proposal to move those  
19      existing cedar plants. I'd really like somebody  
20      to think would it be better to leave them where  
21      they are since they are regenerating. That's one  
22      question.

23                The second, I think we need more  
24      clarification of the plan for white cedar

1 regeneration. And I'm particularly concerned that  
2 if red maple is also planted in this area, how are  
3 we going to prevent the red maple from dominating  
4 or wiping out the white cedar as we have seen  
5 happen in many other places. And this kind of  
6 relates to a general question that I have. Should  
7 the state be converting areas that we strongly  
8 believe were former Atlantic White Cedar swamps to  
9 other types of wetlands. Particularly, in light  
10 of that recommendation that I've just read from  
11 the natural heritage program that said restore  
12 white cedar when you have an area that was a  
13 former white cedar swamp.

14 Final point. This is a pilot program.  
15 It was intended to assess the effectiveness of  
16 wetland banking. It needs a thorough and  
17 objective evaluation from the Office of  
18 Environmental Affairs. And that evaluation should  
19 include, first of all, we must assess the health  
20 of the bank site. Hopefully, that will come up  
21 with an A+ thanks to Eric's good work. But also,  
22 we must assess what projects are permitted through  
23 this bank. What are their locations around the  
24 watershed? What values were lost, if any, to

1 local communities? Was there a net loss or a net  
2 gain overall as a result of this bank?

3 And finally, in order to assess whether  
4 the bank improves the success of mitigation as the  
5 legislation directed, you need to have a basis for  
6 comparison with existing on-site mitigation. I  
7 don't know what that baseline of comparison is  
8 going to be. I don't know if anybody has gone out  
9 through the Taunton River Watershed and looked at  
10 different replication sites to see how good they  
11 are at this point, but I think that the state  
12 needs to clarify what you are going to use as a  
13 basis for comparison.

14 That concludes my comments. I do have  
15 written comments that I'm going to submit. And  
16 once again, thank you for the experience to be on  
17 this team. It was an honor and a privilege.

18 MR. ANACHEKA-NASEMANN: Thank you. Is  
19 there anyone on the other list who has put a "yes"  
20 next to their name that they would like to  
21 comment. Forest Emery.

22 MR. EMERY: Good evening. My name is  
23 Forest Emery. I'm a resident of the Taunton River  
24 Basin. I'm also an environmental planner and a

1 wetland scientist. I run my own consulting  
2 company. Regrettably, I became involved just on  
3 the local level, not previously. I was provided a  
4 copy of the expanded ENF and I have some issues  
5 that I'd like to point out and I have some  
6 questions that perhaps through the chair the  
7 proponent can address.

8 The MEPA expanded ENF filing, the Land  
9 Section Item Number 1 was the proponent put "no".  
10 Project proposes to alter over 25 acres, the  
11 response should've been "yes". Misstated.

12 Second one, rare species within the  
13 expanded ENF. The proponent again put "no".  
14 Misrepresented. Areas B and C are entirely within  
15 a priority habitat, P.H. 136 Eastern Box Turtle,  
16 Terrepene Carolinia -- and excuse my Latin if  
17 they're mispronounced but it's a dead language.  
18 Lastly, outstanding resource waters. Again, in  
19 the expanded ENF the proponent put "no".  
20 Misrepresented again.

21 The Monponsett Ponds, both east and west  
22 Monponsett and all the wetlands bordering them,  
23 including the wetlands on this project site, are  
24 classified pursuant to 314 CMR 4.06(2)(a) and 314

1 CMR 4.06(3) as Class A surface public water supply  
2 and the wetlands bordering them. So therefore,  
3 the wetlands and water bodies are outstanding  
4 resource waters. That's a higher classification,  
5 higher performance standard. Those three mistakes  
6 in the expanded ENF by the proponent concern me.  
7 I'm a former Boy Scout, I was taught to be  
8 prepared. Indicates to me the research wasn't  
9 thorough.

10 Next one, while the proponent may have  
11 legally met the circulation requirements under the  
12 MEPA regulations set forth at 301 CMR 11, et  
13 sequentes. I would respectfully submit that the  
14 proponent and the team failed to meet the intent  
15 of the purpose clause of MEPA, which is our Master  
16 Environmental Policy Planning Act. There's 40  
17 conservation commission within Taunton River  
18 Basin. 20 towns entirely within, 20 towns  
19 partially within. Now while those commissions may  
20 receive the environmental monitor monthly, it  
21 would've been at the very least a courtesy by the  
22 proponent to have submitted a copy of the expanded  
23 ENF to each and every commission as it affects  
24 each and every commission.



1           We're dealing with Article 97 Land,  
2           that's conservation land. Article 97 of the  
3           Massachusetts constitution, public purpose.  
4           Public purpose, we must positively not negatively  
5           effect the public natural resources. I would  
6           respectfully submit that the parties involved,  
7           including the proponent, should forthwith submit a  
8           copy of the expanded ENF to each and every  
9           conservation commission within the Taunton River  
10          Basin because they're all affected by it. While  
11          they may meet the letter of the law in the MEPA  
12          regulations, I respectfully submit it's ripe for a  
13          court challenge when the Secretary of the EOE  
14          issues a certificate. So I would respectfully  
15          submit to Mr. Devillars and company that perhaps  
16          while there's still time on the comment period,  
17          that they do so.

18                 Rare species Eastern Box Turtle, 321 CMR  
19          10, et sequentes. That's MESA, Massachusetts  
20          Endangered Species Act, Mass General Law Chapter  
21          131A. What I just recited are the implementing  
22          regulations. This is state owned property. It's  
23          one of the priority habitat of state listed  
24          species and it appears that the proponent may have

1 an exemption, but not until a habitat management  
2 plan is in place and approved by the division.  
3 I'd also respectfully submit that a careful  
4 reading of paragraph 11 of 321 CMR 10.14 does not  
5 -- even though they use the wording, "but not  
6 limited to" -- does not include wetland creation,  
7 enhancement or restoration. I respectfully submit  
8 to the MEPA unit and to Mass DEP that until that  
9 habitat management plan is approved, that another  
10 state permit at this point in time is required, a  
11 MESA application.

12 The hydrology. There's two paragraphs  
13 in the filing about hydrology. That's deficient  
14 and ommissive to say the least. The hydro period,  
15 there's a lack of report with data. The estimated  
16 seasonal high groundwater table, the estimated  
17 seasonal low groundwater table, how ascertained,  
18 provide data not just the answers as my professors  
19 at college taught me. I'd like to see the entire  
20 equation.

21 Soils and subsurface conditions organic  
22 in mineral, Area C. Route 44 construction. There  
23 was a point on the new portion of Route 44 where  
24 they had work over organic soils. Nobody picked

1     it up during the design and permitting. There was  
2     a five million dollar change order for steel  
3     sheathing. P.A. Landers loved that. And I'd also  
4     respectfully submit, based on the information I've  
5     reviewed to date, that there's a sufficient --  
6     there's insufficient data with respect to  
7     subsurface conditions in the soils, augers are  
8     insufficient. We could've taken a bog excavator  
9     out there and performed test pits. Deep hole  
10    observations, planning and exploration activities  
11    are exempt. A planning and exploration deep hole  
12    observations could've been discussed with EOEA,  
13    MEPA, U.S. Army Corps, Mass DEP, and the Hanson  
14    Conservation Commission. We have what we call  
15    soil science, a tile spade, somebody could've dug  
16    more holes. The test pits that I saw are  
17    insufficient.

18           While we have monitoring wells out  
19    there, I'd like to see a correlation with what the  
20    soil scientists call redoximorphic features, which  
21    is how we determine estimated seasonal high  
22    groundwater in Massachusetts for storm water  
23    management systems and for Title 5 on-site septic  
24    systems.

1           Plant materials and specifications. The  
2           proponent proposes to create a certain percentage  
3           of forested wetlands. Yet, they've speced trees  
4           at 18 and 24 inches in height and proposed 930  
5           Atlantic White Cedar in Area C. In what we call a  
6           periglacial pattern ground, that's the scientific  
7           terminology, the colloquialism is pit and mound  
8           topography.

9           While Beals and Thomas provided the  
10          detail of a typical mound, they didn't provide a  
11          planned layout.

12          The Atlantic white cedar has a growth  
13          rate, according to the United States Department of  
14          Agriculture Forest Service, Silvics Book, Volume  
15          1, Conifers, which is before Alan, of 0.9 feet per  
16          year. The proponent proposes, based upon their  
17          expanded ENF, to pull out 70 percent of the  
18          credits after two growing seasons. At that point,  
19          the Atlantic White Cedars will be approximately  
20          3.8 feet, like the small saplings that we saw down  
21          on Area C on the dike. That does not meet the  
22          legal definition of tree. Under the Army Corps of  
23          Engineers 1987 Wetland Delineation Manual, a tree  
24          is greater than 5 inches diameter grassed height

1 and over 20 feet. It's the same thing for the  
2 Massachusetts DEP. If we're going to be selling  
3 forested wetlands, we need to specify larger tree  
4 specimens.

5 Professional oversight during  
6 construction. I noticed in the Beals and Thomas  
7 plans that they used professional wetland  
8 scientists and wetland specialists. I understand  
9 what a professional wetland scientist is, but a  
10 wetland specialist can be anybody.

11 Degrading. The sub-grade and the  
12 finished grade are critical. There's no question  
13 in my mind, having built many acres of cranberry  
14 bogs in wetland replication areas within the south  
15 coast and southeastern Massachusetts, that we need  
16 a PLS, professional land surveyor, a professional  
17 engineer, and a professional wetland scientist on-  
18 site until this project is planted or it's doomed  
19 to failure in my opinion.

20 The applicant has to prepare U.S. EPA  
21 Section 402, NPDES Storm Water Pollution  
22 Prevention Plan. That should be submitted. It  
23 should've been prepared by now in my opinion, to  
24 MEPA, U.S. Army Corps, Mass DEP, and the Hanson

1 Conservation Commission. If I may, I'd like to  
2 remind everyone here this project is unique. It's  
3 the first of its kind in Massachusetts. Whereof  
4 my comments may seem adversarial, I support the  
5 project. But financially and technically, as I've  
6 reviewed it and I've performed an extensive  
7 review, it won't work. In 1988, the United States  
8 Army Corps studied Massachusetts. I believe it  
9 may have been Massachusetts and New England. I  
10 think 60 percent of the wetlands failed.

11 This project also, in my opinion, is not  
12 in compliance with Mass DEP Guidance Policy  
13 BRP/DWM 2-2 effective March 1st, 2002. Inland  
14 wetland replication guidelines by Mass DEP. It  
15 does not appear, and I haven't performed a  
16 detailed comprehensive review, with the United  
17 States Army Corps mitigation standards. It seems  
18 it would've made sense to do so.

19 The rare species. I see a double  
20 standard here and it concerns me. I don't like  
21 double standards, one for the public sector and a  
22 different one for the private sector. The MESA  
23 review, I would argue and I put forth to the  
24 various state agencies, that the MESA exemption

1 law does not specifically state wetland creation  
2 enhancement restoration. Does have the proviso  
3 "but not limited to." But a further reading of  
4 321 CMR 10 indicates we exempt normal maintenance  
5 and improvements of cranberry bogs. Let me talk  
6 about that because I worked for a number of  
7 cranberry growers. I can perform normal  
8 maintenance and improvements of the cranberry  
9 bogs. I can square off my bog edges, I can manage  
10 my field zones to within a hundred feet of the  
11 land in production, i.e., crop land, i.e., farm  
12 wetland, i.e., DBW. If I proposed any expansion  
13 of my cranberry bogs, I'm subject to MESA. Seems  
14 to me cranberry bogs are farmed wetland, that's  
15 what we're doing here. So one can make the  
16 argument if they so choose that they're not  
17 entitled to the exemption.

18 I'm also concerned with 310 CMR  
19 10.55(4)(b), subparas 4 and 5, where we're  
20 required to replicate the same waterway, water  
21 body reach. The two specific interests in mind  
22 under a Massachusetts Wetland Protection Act,  
23 flood control and storm damage prevention. Net  
24 transport of wetlands from urban to rural areas.

1 Look at the City of Brockton and Salisbury Plain  
2 Brook, and the Town of West Bridgewater downstream  
3 and the loss of bordering land subject to  
4 flooding, bordering vegetative wetland. The  
5 Salisbury Blain Brook runs mostly through pipes  
6 and concrete dikes, which raise the water surface  
7 elevations. There's a good reason why the United  
8 States Army Corps of Engineers bought significant  
9 flood plain property and easements along the  
10 Charles River so we wouldn't have that problem  
11 that we saw in the Mississippi and the Missouri  
12 River valleys in 1993.

13 This project's been filed with the  
14 Hanson Conservation Commission and the Mass DEP as  
15 a limited project, and the 310 CMR 10.53(4) which  
16 is to improve the natural capacity resource areas  
17 to protect the interest identified in Mass General  
18 Law Chapter 131, Section 40. Section 404(b)(1)  
19 guidelines require that you choose the least  
20 environmentally damaging practicable alternative.  
21 If you looked at Cape Cod, Southeastern  
22 Massachusetts, Southwestern Massachusetts, a lot  
23 of the existing bordering vegetative wetlands that  
24 are now forested are old cranberry bogs that were



1 abandoned and allowed to revert back. They do  
2 quite nicely. Mother nature is quite good at  
3 healing herself.

4 Let me use an example. This bog here.  
5 This portion's wet, that's an upland bog. I  
6 respectfully submit, Beals and Thomas made a  
7 mistake in classifying it as a wetland. They did  
8 a disservice to the proponent. They can earn more  
9 credits from creating a wetland out of upland.  
10 Why are you calling that a wetland? That portion  
11 of the bog is up in my opinion. It doesn't meet  
12 the federal wetland hydrology requirement, nor  
13 will it meet the Mass DEP second test of  
14 indicators of inundated or saturated conditions  
15 which shall include one or more of the following  
16 characteristics; groundwater within a major  
17 portion of the root zone, including capillary  
18 fringe, defined as within 12 inches of the  
19 existing land surface; observation of frequent or  
20 prolonged standing flowing of surface water or  
21 hydric soils. Based on the elevations that I saw  
22 out there, the finished grade on the bogs in this  
23 area, approximately two feet above estimated  
24 seasonal high water table. Doesn't meet the

1 hydrology requirement. I'd urge the proponent to  
2 take a second look at that because I've had some  
3 experience with upland minimal bogs, and after a  
4 brief purview of the vegetation in the community  
5 out there it didn't appear that the forbes and  
6 herbaceous ground cover didn't meet the 50 percent  
7 wetland bank community. You get more credits if  
8 it's upland.

9           The financial issues that concern me.  
10 Proponent puts forward that the project cost is  
11 1.6 million dollars. They also propose to create,  
12 enhance and restore approximately 1,105,450 square  
13 feet of what we'll say, wetlands, 15, 16 acres of  
14 wetlands and 9.3 acres of upland. Divide those  
15 numbers. You get a square foot cost of \$1.45 per  
16 square foot. You cannot build this project for  
17 that amount. Go ask P.A. Landers, T.L. Edwards,  
18 or some of the other big earth moving contractors  
19 if they can do it. I then asked Mr. Las on  
20 Tuesday night when they were before the Hanson  
21 Conservation Commission on their notice of intent  
22 public hearing what they intended to sell credits  
23 at because it wasn't in the expanded ENR. Mr. Las  
24 stated to me they were going to sell credits

1 between \$150,000 and \$250,000. This concerns me.

2 There's two studies out, while it's very  
3 difficult to quantify the value of a wetland. We  
4 have different types of wetlands like we have  
5 motor vehicles. It's a simple analogy for  
6 laypeople. And there's two studies out, one out  
7 by Dennis King and Boland, 1997, and another by  
8 Louis-Berger, 1997. The King study, which I  
9 believe is more accurate, sets that a forested  
10 wetland freshwater is worth a \$124,000. The  
11 Louis-Berger study sets forth that a emergent and  
12 forested wetland is worth 354,000 dollars.

13 Basically what these wetland that they  
14 proposed can create, while they are a monopoly  
15 economically and they need to be at this time  
16 because it's a pilot program. We have to have a  
17 reasonable return on investment. If we don't at  
18 the private sector business, it's not worth going  
19 forward on that particular business venture. I  
20 was taught at Bentley, 25 percent gross return on  
21 investment minimum or you walk away. I don't see  
22 that here.

23 Performance bonds. As stated in the  
24 documents, the applicant upon the bank sponsors

1     require to provide proof of performance bond as  
2     determined by a Mass DEP and the United States  
3     Army Corps of Engineers, documentation of the bond  
4     up until they construct. Thereafter, they don't  
5     have to, in my interpretation of the section, they  
6     don't have to document to the state and federal  
7     agencies they have performance bond.

8             The Town of Norfolk where I review for  
9     their conservation commission, which has a very  
10    strong local wetland bylaw. You want to alter  
11    wetlands up there, performance bond, 15 dollars a  
12    square foot per alteration. Take the figure here,  
13    we are talking ten million dollars. That's a lot  
14    of money, and I'll tell you what, a performance  
15    bond is the best way to guarantee a project. It's  
16    what the planning boards used for our road laying  
17    infrastructure. I would urge state and federal  
18    agencies and more so, the Town of Hanson which  
19    under home rule authority, has less say in this to  
20    ensure that we have a performance bond properly  
21    calculated which I believe should be five dollars  
22    a square foot and it should be good for five  
23    growing seasons. And if they can't post that  
24    bond, they can't do the deal. Find somebody else

1       that can.

2               The proponent then mentioned something  
3       that piqued my interest today on a site walk.  
4       That some of the borrow material, material that  
5       you're going to excavate is going to go off-site.  
6       That's coarse sand out there, it meets Title 5  
7       specifications for what we call perc sand. Skippy  
8       Landers will sell it to you for nine dollars a  
9       yard delivered. What's it worth in place, in  
10      situ, four or five dollars a yard. So we're going  
11      sell that. How much of it I don't know. And  
12      we're going to help deal with the project,  
13      perhaps.

14             Perhaps the least environmentally  
15      damaging practicable alternative is let mother  
16      nature take her course. I can tell you right now  
17      again after studying the Beals and Thomas plans,  
18      these irrigation ditches that run this way are  
19      going to be left in place. This is going to be a  
20      basically a three to one slope. These ditches are  
21      going to drain into this wetland. You're going to  
22      definitely convert this back to upland. Now if  
23      this is a wetland it's an undisclosed impact. You  
24      can tell from the photogrammetric engineering

1 signature, the front of mine is Janice Stone, so  
2 I've learned a little bit about photogrammetry,  
3 that the value in chroma of this red hue, the  
4 darker the signature, the wetter the bog. That's  
5 a very dry bog, that's extremely dry. That's a  
6 little wet there. That's wet there. You can see  
7 the different reds. The fact that the proponent  
8 didn't provide any Massachusetts wildlife habitat  
9 data used in the Mass DEP wildlife habitat  
10 protection guidelines for inland wetlands dated  
11 March, 2006 concerns me. The fact that there were  
12 deficiencies, errors and omissions in the ENF  
13 filing concern me.

14 Let's see, if we sell, you're going to  
15 get I believe 14.68 credits according to the  
16 summary table. We sell that at \$250,000 an acre.  
17 That means you're selling it at three dollars and  
18 thirty one nine cents, we'll call it three dollars  
19 and thirty two cents per square foot. The profit  
20 margin is two percent. An old developer once  
21 taught me four rules about real estate, water in,  
22 water out, location, location, location, that  
23 should actually be first. But most importantly,  
24 you put a dollar in, you get four out. That's a

1 real estate developer. Regrettably, in my entire  
2 25 years in this business I've have met two  
3 developers who actually understand social and/or  
4 corporate responsibility. In the biblical sense,  
5 it's called glean or tithing, giving back to your  
6 community.

7 I want to see this project succeed, but  
8 I am also concerned and I forget the individual  
9 who raised it but I'm glad they raised the point  
10 that there's agencies that are proposing and  
11 reviewing. It creates at the very least the  
12 appearance of impropriety. It's like the fox in  
13 the hen house. We need to prepare for what we do  
14 here because this project is psugenerous.

15 Construction phasing. We've been given  
16 a general construction phasing, but when I first  
17 started painting, my father said to me when I was  
18 a young lad of eight years old, "Don't paint  
19 yourself into a corner." I did. If you don't  
20 work this Area C right, you're going to paint  
21 yourself into a corner. So how you work this with  
22 heavy equipment is extremely critical. You go  
23 ahead and you put a Caterpillar 235 excavator  
24 which is a very big machine out there to pull that

1 out, even with four feet coarse, Freetown,  
2 Swansea, or Tahonet sands, those are the type of  
3 soils mapped out there with organic soils  
4 underneath, you have very little structural  
5 stability. The machines will sink. I can bring  
6 you down to a bog on Route 27 that you can see  
7 where we lost a D-9, sank right in there and  
8 didn't get it out, still there today.

9 And last but not least, I'm concerned  
10 that -- I grow trees and shrubs, I belong to the  
11 Arnold Arboretum , I go up every September 17th  
12 and I buy my trees and shrubs at silent auction.  
13 I also bring back a tree or shrub from every  
14 project that I work on. It reminds me about the  
15 project and gives me a good horticultural garden.  
16 So in one sense I have what we call a green thumb.  
17 I'm hoping and praying that the proponent and  
18 their team have a green thumb because if they  
19 don't, the best laid plans of mice and men often  
20 go awry.

21 I have a lot of valid comments,  
22 recommendations, and a lot of revisions, as other  
23 parties of do here. I'm concerned that if they're  
24 not heeded, I'll have to deal with this on a local



1 level. With the Hanson Conservation Commission  
2 and the local commissions, and the Mass Wetland  
3 Protection Act and the local wetland bylaw.

4 While I understand upon its permitting  
5 and running, all these various committing agencies  
6 concurrently, as I was taught by that old  
7 developer the best time to permit a project is  
8 during a major holiday season. We're in one. And  
9 more importantly, if you have a political  
10 transition take advantage of it. I guess we have  
11 a political transition. That concerns me.

12 I see a lot of people that are  
13 congratulating themselves and have a warm fuzzy  
14 feeling. That doesn't give me the arms length  
15 distance that I like to see. And again, I'm  
16 concerned that a lot of people have worked very  
17 hard. They're all listed, they've all been spoken  
18 to, the enabling legislation, Mass General Law  
19 Chapter 291, Section 89 was crafted, I believe it  
20 was August 2004. The proponent had to wait for  
21 the EOEA and the EOTC to select them and their  
22 development team. It takes time. Yet,  
23 Mr. Barrett stated, they're hoping for a spring  
24 construction. I hope not. That's insufficient

1 review. Insufficient review. On the hydrologic  
2 data that you have on this site, both surface and  
3 ground, in my professional opinion is  
4 insufficient. I mean just read the DEP inland  
5 wetland replication guideline. I don't think the  
6 state agencies can exempt themselves from their  
7 own statutes and regulations, but as Tip O'Neil  
8 once said, all politics are local. That's why I  
9 intend to deal with this with the local order of  
10 conditions. Quite frankly, it's appealable as a  
11 person aggrieved. I'll let you surmise where I'm  
12 going ladies and gentlemen.

13 Thank you for the time to speak.

14 MR. ANACHEKA-NASEMANN: Thank you. That  
15 concludes the individual so indicated on our sign  
16 in forum that they wish to speak. If anyone else  
17 -- okay. Your name?

18 MR. LINDQUIST: My name is Phil  
19 Lindquist and I'm Chairman of the Hanson  
20 Conservation Commission. And after starting our  
21 public hearings and seeing what was happening,  
22 we've composed a letter to Blue Wave Strategies  
23 and in the letter we asked Mr. Barrett -- the  
24 Hanson Conservation Commission respectfully

1 requests an extension of 30 days to provide  
2 comment on the two above referenced project  
3 applications. The deadline for the comment is  
4 1/2/07 for both applications. The Commission  
5 requests that these deadlines be extended to  
6 2/1/07 for the following reasons.

7           One, the notice of intent for this  
8 project was submitted on 11/28/06 for a 12/12/06  
9 hearing before the Hanson Conservation Commission.  
10 Due to the scope of the project, the time involved  
11 in reviewing the notice of intent to prepare for  
12 the meeting with extent and as a result, the  
13 Commission has not had an opportunity to review  
14 the material related to the above application and  
15 details sufficient to provide adequate comment.

16           Two, the Commission intends to hire  
17 professional consultants in the field of  
18 hydrology, wetland science, wildlife habitat  
19 protection to assist in the review of this  
20 project. We are currently in the process of  
21 researching consultants whom may be interested and  
22 available to assist the Commission and have been  
23 unable to secure the service of any professional  
24 needed as of this writing. The Commission would

1 like to present comments with input from our  
2 professional consultants.

3 Three, with the holiday season upon us,  
4 our schedules and those of the professional  
5 consultants whom we wish to engage indicate that  
6 there is insufficient time under the present  
7 deadline. The conservation staff, the agent, will  
8 only have seven work days to review these findings  
9 before the existing 1/2/07 deadline for comments,  
10 and it is impractical to assume that this can be  
11 done with any degree have professional competence.  
12 For the above reasons, we ask that the requested  
13 extension of time be granted and thank you for the  
14 opportunity to provide our comments on this most  
15 important matter.

16 MR. ANACHEKA-NASEMANN: Thank you. That  
17 concludes the listed speakers who indicated they  
18 wished to submit oral testimony tonight.  
19 Certainly like to thank you all for coming out and  
20 for the input. Your comments will be considered  
21 in our public interest review process as  
22 Lieutenant Colonel Nelson indicated and as Holly  
23 Johnson indicated on behalf of MEPA.

24 I'd like to express some gratitude to

1 Janine Delaney and the Hanson Conservation  
2 Commission for making this facility available to  
3 us tonight and assisting us in the logistics in  
4 setting this hearing. So thank you all very much,  
5 and my only last request is please drive safely.

6 (Whereupon, the hearing was concluded at  
7 9:42 p.m.)

CERTIFICATE OF REPORTER AND TRANSCRIBER

This is to certify that the attached  
proceedings

in the Matter of:

RE: PERMIT APPLICATION  
REVIEW OF A PROSPECTUS FOR A WETLAND MITIGATION  
BANK IN THE TAUNTON RIVER, MASSACHUSETTS WATERSHED  
FILE # NAE-2005-1995

BLUE WAVE CAPITAL, LLC - Applicant

Place: Hanson, Massachusetts

Date: December 14, 2006

were held as herein appears, and that this is the  
true, accurate and complete transcript prepared  
from the notes and/or recordings taken of the  
above entitled proceeding.

Jeffrey Mocanu  
Reporter

December 14, 2006  
Date

Lori O'Leary  
Transcriber

January 11, 2007  
Date